

## Health and Human Services

370.601

Tribe. The Contracting Officer may require bonds of private business entities that are joint ventures with, or subcontractors of, an Indian Tribe or a public nonprofit organization serving as a governmental instrumentality of an Indian Tribe. A bid guarantee or bid bond is required only when a performance or payment bond is required.

(d) *Indian preference in employment, training and subcontracting.* Contracts awarded under the Buy Indian Act are subject to the requirements of section 7(b) of the Indian Self-Determination and Education Assistance Act 25 U.S.C. 450e, which requires that preference be given to Indians in employment, training, and subcontracting. The Contracting Officer shall include the Indian Preference clause specified in 352.270-2 in all Buy Indian solicitations and resultant contracts. The Contracting Officer shall use the Indian Preference Program clause specified in 352.270-3 as prescribed in 370.202(b). The Contracting Officer shall follow all requirements specified in subpart 370.2 which are applicable to a Buy Indian acquisition (e.g., sections 370.204 and 370.205).

(e) *Subcontracting.* A contractor shall not subcontract to other than Indian firms more than 50 percent of the work under a prime contract awarded pursuant to the Buy Indian Act. For this purpose, work to be performed does not include the provision of materials, supplies, or equipment.

(f) *Wage rates.* The Contracting Officer shall include a determination of the minimum wage rates by the Secretary of Labor as required by the Davis-Bacon Act (40 U.S.C. 276a) in all contracts awarded under the Buy Indian Act for over \$2,000 for construction, alteration, or repair, including painting and decorating, of public buildings and public works, except contracts with Indian tribes or public nonprofit organizations serving as governmental instrumentalities of an Indian Tribe. The Contracting Officer shall include the wage rate determination in contracts with private business entities, even if they are owned by an Indian Tribe or a member of an Indian Tribe and in connection with joint ventures with, or subcontractors of, an Indian Tribe or a public nonprofit organi-

zation serving as a governmental instrumentality of an Indian Tribe.

### 370.504 Competition.

(a) Contracts awarded under the Buy Indian Act are subject to competition among Indians or Indian concerns to the maximum extent practicable. When the Contracting Officer determines that competition is not practicable, a JOFOP is required in accordance with 306.303.

(b) The Contracting Officer shall: synopsize and publicize solicitations in FedBizOpps and provide copies of the synopses to the Tribal office of the Indian Tribal government directly concerned with the proposed acquisition as well as to Indian concerns and others having a legitimate interest. The synopses shall state that the acquisitions are restricted to Indian firms under the Buy Indian Act.

### 370.505 Responsibility determinations.

(a) The Contracting Officer may award a contract under the Buy Indian Act only if the Contracting Officer determines that the project or function to be contracted is likely to be: satisfactorily performed under that contract; and properly completed or maintained under that contract.

(b) The Contracting Officer shall make the determination specified in paragraph (a) of this section in writing prior to the award of a contract. The determination shall reflect an analysis of the standards set forth in FAR 9.104-1.

## Subpart 370.6—Conference Funding and Sponsorship

### 370.600 Policy.

It is HHS policy that the conferences it funds or sponsors shall: be consistent with HHS missions, objectives, and policies; represent an efficient and effective use of taxpayer funds; and be able to withstand public scrutiny.

### 370.601 Funding and sponsorship.

Funding a conference through an HHS contract does not automatically imply HHS (OPDIV/STAFFDIV) conference sponsorship, unless the conference is funded entirely by HHS.